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JULY 30 2008

HAROLD BAER
U.S. DISTRICT JUDGE
S. D. N.Y.

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LAW OFFICE OF

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July 27, 2007

NEW JERSEY AFFILIATE

LAW OFFICE OF

MASELLI-WARREN, P.C.

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VIA Facsimile (212) 805-7901

Hon. Harold Baer, Jr.
 United States District Court
 Southern District of New York
 500 Pearl Street, Chambers 2230/Courtroom 23B
 New York, New York 10007

RE: Amerex Group, Inc. et Al. v. Lexington Insurance Company and
 Westchester Surplus Lines Insurance Company
 Civil Action No. 07 CV 3269 (HB)
Our File No. 04-109

Dear Judge Baer:

This firm represents the Plaintiffs, Amerex Group, Inc., Amerex USA Inc., (collectively "Plaintiffs"), in the above captioned matter.

In connection with the Defendants Lexington Insurance Company and Westchester Surplus Lines Insurance Company (collectively "Defendants") motion for partial summary judgment seeking to compel discovery and the Plaintiffs cross-motion for partial summary judgment dismissing Defendants' Second Affirmative Defense which demand appraisal. With the Court's permission, the parties agreed to the briefing schedule for the motion and cross-motion as follows:

- Defendants have made a motion to compel appraisal on July 6, 2007.
- Plaintiffs shall serve their cross-motion and opposition to Defendants' motion on or before July 27, 2007.
- Defendants shall serve their opposition to Plaintiffs' cross-motion and reply on or before August 3, 2007.
- Plaintiffs shall serve reply to Defendants' opposition to its cross-motion on or before August 10, 2007.

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Plaintiffs and Defendants request oral argument on this motion and cross-motion.

We would accordingly ask that the discovery stay extend pending the determination of the motion and cross-motion.

On a separate note, the proposed Pretrial Scheduling Order places this case on the June 2008 Trailing Calendar yet it provides for a Joint Pretrial Order to be submitted August 26, 2008. Accordingly plaintiffs ask the court's indulgence in providing the parties with a new date for which the parties should submit a Joint Pretrial Order.

The parties are prepared to appear at Court's convenience to respond to any questions the Court may have regarding the content of this letter.

This letter is sent with the consent of counsel for Defendants.

Respectfully submitted,

WEG AND MYERS, P.C.

By *Dennis D'Antonio*

Dennis D'Antonio, Esq. (DD 0973)
Janese N. Thompson, Esq. (JT 7714)

cc:

Gennet, Kallmann, Antin & Robinson (Via Fax & Regular Mail)

6 Campus Drive, 2nd Floor

Parsippany, New Jersey 07054-4406

Attn: Michael S. Leavy, Esq.

Mark Antin, Esq.

8/1/07

Re: Case No. 07-01636 (which
will begin 10/10/07 which
leaves almost 6 months to decide a
case that does not move forward
by discovery time will con-
tinue on 10/10 but it is already
late to start -
Talk on 8/10 but it is already
late to start -
SOPR DEP'D
(Leave 8/10)

10/10/07
Discovery begins 10/10/07
and the trial date
is set for 01/08 - The trial has
been rescheduled to 07/07
as of 08/07/07 - The August 08 TTC
is set for 07/07/07 - The motion
has been addressed to the court
in time - Your letter is addressed to the court
to which this letter is addressed to the court
nearly so more in the close during
the trial period than I did for

Endorsement:

The PTSO now reflects my change an August 2008 trial month and a closing of discovery on April 5, 2008 and the last day for fully briefed motions as May 20, 2008. The trial has been added to the August 08 trailing trial calendar. Oral argument is September 6, 2007 call Chambers for time. Your briefing schedule on the motion to which this letter is addressed is fine I rarely do more in the discovery stay world than I did for you since oral argument is September 6 discovery will begin October 20 which leaves almost 6 months - I certainly do not promise a decision but hat date and if you need more discovery time we can talk on September 6 but its already late to start.

AMEREX GROUP, INC., and) Index No. 07 CV 3259 (HB)
AMEREX USA INC.,)
)
 Plaintiffs,)
)
 - against -)
)
 LEXINGTON INSURANCE COMPANY AND)
 WESTCHESTER SURPLUS LINES)
 INSURANCE COMPANY,)
)
)
 Defendants.)

**PROPOSED PRETRIAL
SCHEDULING ORDER**

APPEARANCES:

Plaintiff(s) by: WEG and MYERS, P.C.

By: _____

Defendant(s) by GENNETT, KALLMAN, ANTIN & ROBINSON, PC.

By: _____

HAROLD BAER, Jr., District Judge:

Do the parties consent to proceed before a United States Magistrate for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes No Parties unable to select a magistrate.

Pursuant to rule 16(b) of the Federal Rules of Civil Procedure, after holding an initial pretrial conference on notice to all parties, it is hereby ordered that:

Motion to Vacate Appraisal Demand/Motion to compel appraisal

Except under circumstances agreed to by the Court:

1. This case is added to the ~~2008~~ TAILING Trial Calendar.

Weg and Myers, P.C.

ATTORNEYS AT LAW
FEDERAL PLAZA
52 DIANE STREET
NEW YORK, NY
10007

*-45 days before
discovery begins as
of June 26, 2007 -
July 15, 2007*

2. No additional parties may be joined after 2/4/2008.

New parties shall be bound by the deadlines included in this Pretrial Scheduling Order. If new parties are joined, the party joining them shall forward to them a copy of this Pretrial Scheduling Order and provide them with access to all previously taken discovery. Should this pose a seemingly insurmountable problem, call Chambers.

3. No additional causes of action or defenses may be asserted after 2/4/2008 without leave of Court.

4. **Discovery:** All discovery, except for expert discovery, shall be commenced in time to be completed by 11/5/08. Disclosure of expert testimony, if any, will be made at least 45 days before the agreed to trial month. Evidence intended to contradict or rebut the subject matter of the expert testimony will be submitted within 21 calendar days after the disclosure made by the other party, subject only to further order of this Court. As the Court rarely grants extensions, any delays or disputes in the taking of discovery should be reported to the Court immediately.

If applicable, decisions with respect to disclosure and discovery of electronically stored information along with privilege issues related to that information, shall be provided to the Court within 10 days of this Order.

5. **Motions:** No party may make a dispositive motion returnable after 9/9/2008. Either party may request (and will be given a date by Chambers) for oral argument. The above date is the date by which any motion shall be fully briefed (i.e., moving, opposition and reply papers) and a courtesy copy delivered to Chambers.

In deciding the last date to submit fully briefed motions and your agreed to trial month. Keep in mind that the Court requires at least 60 days to decide dispositive motions.

6. **Joint Pretrial Order:** A joint pretrial order shall, unless waived by the Court, be submitted by 8/26/08. The pretrial order shall, unless waived by the Court's Individual Practice and Rules. Counsel may inquire of Chambers with respect to the filing date(s) for requests to charge, proposed voir dire, and motions in limine, but in no event are they to be submitted less than five (5) business days (fully briefed before the date set for trial).

7. The law clerk assigned to this case is Mark, to whom all correspondence should be directed.

8. Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation

9. Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties before the case will be removed from the trial calendar. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance, an Order of Discontinuance (copy attached), signed by all parties.

10. The parties' signatures below represent their understanding and agreement that this schedule is final and binding upon them unless the Court concludes that extraordinary circumstances warrant an extension with respect to one or more than one of the scheduled dates.

For Plaintiff *W. Bernstein Myers, PC
by James Thompson*

For Plaintiff

Pet. H.
For Defendants

For Defendant

SO ORDERED.

Dated: New York, New York
June 28, 2007

Harold Baer
HAROLD BAER, JR.
United States District Judge